IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1570 OF 2004
IN
CHAMBER SUMMONS NO.1219 OF 2003
IN
SUIT NO.468 OF 1999

ICICI Limited ....Plaintiff

V/s.

Jayant Vitamins Ltd. & Ors. ....Defendants

And

Rutvij Chemicals Ltd. & Anr. ....Respondents

And

The Court Receiver,
Bombay High Court ....Respondents

And

Smt.Prerana A. Thakore ....Applicant
Proposed
Intervenor

Mr.Birendra Saraf i/b M.K. Ambalal & Co. for the Plaintiff to show cause.

Mr.H.J. Thakker i/b H.V. Chande for the Intervenor.

Mr.C.S. Kapadia i/b C.D. Patel for Defendant No.1.

Ms.Swati Deshpande i/b M.S. Bodhanwala & Co. for Defendant No.2.

Mr.Onkar Warange i/b Shaunak Satpute for Defendant No.3.

Ms.Suchitra Maharana i/b Consulta Juris for Defendant No.4.

Mr.Kamal Khata i/b Federal & Rashmikant in support of Chamber Summons No.1570 of 2004.

CORAM : S.J. VAZIFDAR, J.
DATED : 19TH OCTOBER, 2004.

P.C. :

1. The Applicant claims to be a prior mortgagee in respect of the properties which form a security for repayment of the Plaintiff's dues. The Plaintiff sues in its capacity as a debenture trustee.

2. It is necessary to implead the Applicant in this suit to avoid multiplicity of proceedings. The validity of the alleged English mortgage is disputed by the Plaintiff. It is clarified that this order ought not to be construed as having decided the validity or otherwise of the Applicant's alleged mortgage. In fact I did not permit either of the parties to advance their contention regarding the validity of the mortgage. Assuming that the English mortgage is valid the interlocutory orders will affect the Applicant. It is true that the Applicant may have the remedy of filing a Notice of Motion to challenge or vary the interlocutory orders. However, instead of driving parties into adopting cumbersome procedures,

it would be more convenient to implead the Applicant.

3. In the circumstances, Chamber Summons No.1219 of 2003 is made absolute in terms of prayer (a).

4. Chamber Summons No.1570 of 2004 is dismissed.

5. Liberty to the Applicant to adopt appropriate proceedings in respect of other reliefs claimed in the Chamber Summons.

6. The amendments to be carried out within four weeks from today. The Applicant in Chamber Summons No.1570 of 2004 seeks leave to intervene in the above Chamber Summons No.1219 of 2003. Despite the fact that the Applicant in Chamber Summons No.1570 of 2004 does not have locus, I have heard the learned counsel appearing on behalf of the Applicant.

. Parties to act on an ordinary copy of this order duly authenticated by the Chamber Registrar/Court Stenographer of this Court.